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FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/08
 LAST UPDATED 01/31/08 HM 22

SPONSOR Maestas

SHORT TITLE Traffic Offense Decriminalization Task Force SB _____

ANALYST Escudero

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

RELATES TO: HM 19 and SM 14

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Administrative Office of District Attorney (AODA)

No Response Received From

Public Defender Department (PDD)
 Attorney General Office (AOG)
 Tax and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Memorial 22 resolves that the Administrative Office of the Courts be requested to convene a task force consisting of representatives from the NM Association of Counties, the NM Municipal League, the Public Defender Department, the NM District Attorneys Association and the Motor Vehicle Division of the Taxation and Revenue Department to study the feasibility of and procedure for decriminalizing traffic offenses and recasting traffic violations as civil infractions.

The memorial further resolves that a representative of the task force report on the study and any recommendations to the appropriate interim legislative committee no later than November 2008.

FISCAL IMPLICATIONS

According to AOC, there will be an indirect fiscal impact upon the judiciary, whose staff must assist in convening the requested task force.

SIGNIFICANT ISSUES

According to AODA, at its basic level, this would take time away from the various agencies tasked from other duties to participate in a Task Force where a simpler data collection method might prove more illuminating. **All magistrate courts keep records of offenders and outcomes. A data search could easily show which “traffic” crimes are showing jail time at the outset, for contempt, etc.**

Looking down the line to the purpose/outcome of the Task force: What is a “traffic offense”? Unclear how this would impact costs, without more information on what is considered a “traffic offense”. If it contemplates only the simplest offenses, such as speeding, changing the penalties would have a negligible impact on costs as a) judges don’t put violators of these laws in jail, anyway and b) if it were purely civil (money) liability, judges would still do what they do now, and which is usually the only reason these violators see jail time: put violators in jail for failure to pay fines. These costs are then borne by the Counties as the cost of jailing the offender, and by the state as the loss of collecting fine money; Prosecutors have no time for handling these simple cases so it would not affect them.

If this bill included all crimes in the motor vehicle code, including the felony of leaving the scene of an accident with death or injuries, and DUI , homicide by motor vehicle, and Revoked/Suspended License, it would greatly free up attorney time in the District Attorney Offices as we handle huge numbers of these cases. However, that is NOT a desired outcome as it would seriously undercut years of progress on these types of cases.

Would this include no jail time for persons in contempt of court for failing to pay fines? Would this eliminate the need to give offenders jury trials in traffic courts? Regardless of recidivism and public safety, are there other reasons habitual offenders should be incarcerated (e.g. example to others, minor advantage to the public when not having an offender on the street, etc.)? Would it create an unfair disparity between people who reoffend and cannot pay, versus better off individuals who can buy their way out of trouble?

PERFORMANCE IMPLICATIONS

According to AOC, the courts are participating in performance-based budgeting. It appears that this legislation may have a minimal, if any, impact on performance measures as they relate to judicial budgeting.